

BILL LOCKYER, Attorney General
of the State of California
CHRIS LEONG, State Bar No.: 141079
Deputy Attorney General
California Department of Justice
300 South Spring Street, Suite 1702
Los Angeles, California 90013
Telephone: (213) 897-2575
Facsimile: (213) 897-9395

Attorneys for Complainant

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. ID 2004 63832

OSCAR ANDALON
16912 Sims Street, Apt. #7
Huntington Beach, California 92649

A C C U S A T I O N

Physical Therapist License No. PT 29851,
Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California (Board).

2. On or about October 25, 2004, the Board issued a probationary Physical Therapist License Number PT 29851 to Oscar Andalon (Respondent). This license will expire on August 31, 2006, unless renewed. This probationary license was issued because of the conviction which is charged in this Accusation, pursuant to an Order Granting Initial Probationary License. A true and correct copy of the Order Granting Initial Probationary License is attached hereto as Exhibit A, and incorporated as if fully set forth herein.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the

1 following laws and regulations.

2 4. Business and Professions Code section 2609 provides that:

3 The board shall issue, suspend, and revoke licenses and approvals to practice
4 physical therapy as provided in this chapter [chapter 5.7, commencing with section 2600].

5 5. Business and Professions Code section 2660 provides that:

6 The board may, after the conduct of appropriate proceedings under the
7 Administrative Procedure Act, suspend for not more than twelve months, or revoke, or impose
8 probationary conditions upon, or issue subject to terms and conditions any license, certificate, or
9 approval issued under this chapter for any of the following causes:

10

11 (d) Conviction of a crime which substantially relates to the qualifications,
12 functions, or duties of a physical therapist or physical therapy assistant. The
13 record of conviction or a certified copy thereof shall be conclusive of that
14 conviction...”

15 (l) The commission of any fraudulent, dishonest, or corrupt act which is
16 substantially related to the qualifications, functions, or duties of a physical
17 therapist or physical therapy assistant.

18 6. Business and Professions Code section 2660.2 provides that:

19 “... The board may, in its sole discretion, issue a probationary license to any
20 applicant for a license who is guilty of unprofessional conduct but who has met all
21 other requirements for licensure. The board may issue the license subject to any
22 terms or conditions not contrary to public policy...”

23 7. Business and Professions Code section 2661 provides that:

24 “A plea or verdict of guilty or a conviction following a plea of nolo contendere
25 made to a charge of a felony or of any offense which substantially relates to the
26 qualifications, functions, or duties of a physical therapist is deemed to be a
27 conviction within the meaning of this article. The board may order the license
28 suspended or revoked, or may decline to issue a license, when the time for appeal

1 has lapsed, or the judgement of conviction has been affirmed on appeal or when
2 an order granting probation is made suspending the imposition of sentence,
3 irrespective of a subsequent order under Section 1203.4 of the Penal Code
4 allowing that person to withdraw his or her plea of guilty and to enter a plea of not
5 guilty, or setting aside the verdict of guilty, or dismissing the accusation,
6 information or indictment.”

7 8. California Code of Regulations, Title 16, section 1399.20, provides that:

8 “For the purposes of denial, suspension or revocation of a license,
9 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or
10 act shall be considered to be substantially related to the qualifications, functions
11 or duties of a person holding a license under the Physical Therapy Practice Act if
12 to a substantial degree it evidences present or potential unfitness of a person to
13 perform the functions authorized by the license or approval in a manner consistent
14 with the public health, safety or welfare. Such crimes or acts shall include but not
15 be limited to the following:

16 “(a) Violating or attempting to violate, directly or indirectly, or assisting in or
17 abetting the violation of, conspiring to violate any provision or term of the
18 Physical Therapy Practice Act....”

19 9. Section 2661.5, subdivision (a) of the Code provides that:

20 “In any order issued in resolution of a disciplinary proceeding before the
21 board, the board may request the administrative law judge to direct any licensee
22 found guilty of unprofessional conduct to pay to the board a sum not to exceed the
23 actual and reasonable cost of the investigation and prosecution of the case.”

24 CAUSE FOR DISCIPLINE

25 (Conviction of a Crime)

26 10. Respondent is subject to disciplinary action under sections 2660,
27 subdivision (d), and 2661 of the Code, and California Code of Regulations, Title 16, section
28 1399.20, subdivision (a), in that he was convicted of a crime substantially related to the

1 qualifications, functions, or duties of a physical therapist. The circumstances are as follows:

2 A. On or about May 16, 2001, in a criminal proceeding entitled
3 “People v. Andalon, Oscar Gutierrez ”, in the Superior Court of California, County of Monterey,
4 Case No. SS010799 B, respondent was convicted by a plea of nolo contendere to one count of
5 Forgery, a violation of Penal Code Section 470(d), a misdemeanor.

6 B. On or about July 12, 2001, respondent was placed on probation for
7 three years with terms and conditions including restitution fines of \$100.00, restitution for
8 damages in the amount of \$600 and a 60 day term of incarceration at county jail.

9 C. The facts and circumstances surrounding this offense are as
10 follows: On March 11, 2001, respondent passed counterfeit \$100 bills at a billiards
11 establishment.

12 PRAYER

13 **WHEREFORE**, Complainant requests that a hearing be held on the matters
14 herein alleged, and that following the hearing, the Physical Therapy Board of California issue a
15 decision:

16 1. Declaring that Oscar Andalon was appropriately issued Physical Therapist
17 License Number PT 29851 on probationary terms and conditions;

18 2. Ordering Oscar Andalon to pay the Physical Therapy Board of California
19 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
20 Professions Code section 2661.5; and

21 3. Taking such other and further action as deemed necessary and proper.

22 DATED: October 6, 2005

23 Original Signed By:
24 STEVEN K. HARTZELL
25 Executive Officer
26 Physical Therapy Board of California
27 State of California

28 Complainant

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28